

UNITED STATES DISTRICT COURT
Southern District of Indiana

JOSHUA S. EMERSON

*

Petitioner

*

Civil Action No. 4:21-cv-156

v.

*

Sec.

Div.

UNITED STATES OF AMERICA

*

Defendants

*

* * * * *

ORIGINAL COMPLAINT WITH JURY DEMAND

NOW INTO COURT, through undersigned counsel, comes petitioner, Joshua S. Emerson, an adult of full age of majority, resident in and domiciliary of the County of Clark, State of Indiana, and respectfully submits this Original Complaint, to wit:

JURISDICTION AND VENUE

1. Plaintiffs brings this case against Defendant pursuant to the Federal Tort Claims Act (28 U.S.C. §2671, et. seq.) and 28 U.S.C. §§1346(b)(1), for money damages as compensation for loss of property and person injuries that were caused by the negligent and wrongful act and omission of an employee of the United States Postal Service while acting within the scope of his employment, under circumstances where the United States, if a private person, would be liability to the Plaintiff in accordance with the laws of the State of Indiana.
2. Venue lies in this district under 28 U.S.C. § 1391(b) because a substantial part of the events described herein took place in this district and evidence relevant to the allegations is maintained in this district.

PARTIES

3. The Plaintiff, Joshua S. Emerson, an adult resident of County of Clark, State of Indiana, who

was injured in a motor vehicle crash on October 24, 2019 in Clark County, Indiana.

4. The Defendant, United States of America (US), employed the driver, Andre Reed, who was involved in the crash with Plaintiff, through the United States Postal Service (USPS).

ALLEGATIONS OF FACT

5. Plaintiff was driving his motorcycle West on Utica Street in Sellersburg, Indiana when Mr. Reed attempted a u-turn and struck Plaintiff's motorcycle. The impact caused Plaintiff to suffer injuries to his wrist, head, neck and upper back including a herniated disk and pinched nerve.
6. Plaintiff was injured, in whole or in part, through the negligence, fault, or inattention to duties by Defendant, US, its agents, employees, or others, for whom the US is legally responsible, by virtue of the doctrine of *respondeat superior*, in one or more of the following non-exclusive particulars, to wit:
 - a. Failure to drive safely;
 - b. Other negligent acts and/or omissions to be shown at the trial of this matter.
7. As a result of the accident aforesaid, Plaintiff sustained physical harm to his mind and body, which personal injuries require medical intervention for which he is entitled to recover from the Defendant all general and specific damages which may be proven at trial and deemed reasonable under the circumstances, including but not limited to the following damages:
 - a. Dignitary affront;
 - b. Past and future medical expense;
 - c. Past and future physical pain and suffering;
 - d. Past and future emotional pain and suffering;
 - e. Past and future loss of enjoyment of life

- f. Past and future loss of wages and loss of earning capacity;
 - g. Aggravation and inconvenience;
 - h. Permanent and functional disability; and
 - i. Any other damages which may be proven at trial.
8. As a result of the collision aforesaid, Plaintiff sustained economic loss because of the conduct of defendant aforesaid, causing plaintiff immediate loss of income on the date of incident.
9. Plaintiff has incurred, \$21,746.50 in medical bills, \$25, 643.52 in lost wages and \$6,200 in property damage. Plaintiff is demanding \$150,000.00.

JURY DEMAND

10. Plaintiff hereby prays for a jury trial in this matter.

WHEREFORE, Plaintiff, Joshua S. Emerson, after due proceedings had, prays for judgment herein in his favor and against defendant, to wit: Defendant United States of America be found to have breached its duty to Plaintiff, and that accordingly the Defendant aforesaid be found to be liable to Plaintiff for all damages warranted in the premises, in liquidated amounts, and awarding to Plaintiff, Joshua S. Emerson, all such damages as are properly proven, attorney's fees, and all costs and expenses of the proceedings, including expert witness fees, and all other general and equitable relief for which he may be entitled, including trial by jury.

Respectfully submitted,

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